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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of

Sharon B. PAYTON et al

Art Unit: 1761

Serial No.: 09/842,195

Examiner: C. Paden

Filed: April 26, 2001

For: pH CONTROL OF SAUCES USED ON ACIDIFIED PASTA OR RICE

REQUEST FOR RECONSIDERATION

Commissioner for Patents
PO Box 1450
Alexandria, Virginia 22313-1450

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Dear Sir:

In response to the final Office Action of June 4, 2003, Applicants respectfully request reconsideration.

Initially, Applicants thank the Examiner for withdrawing the rejection under 35 USC § 102(b) as allegedly being anticipated by Lee et al. (U.S. Patent No. 5,562,938), as presented in the Office Action of January 17, 2003.

Claims 1 and 3 stand rejected under 35 USC § 103(a) as allegedly being unpatentable over Hazell et al. (U.S. Patent No. 6,395,320) in view of Hardman et al. (U.S. Patent No. 5,972,408) and Gum et al. (U.S. Patent No. 5,817,356). The Office Action relies upon Hazell et al. "to show the feature of the preamble of claim 1".

The Office Action cites Hardman et al. because it allegedly teaches a sauce having a pH between 4.6 to 6.5, preferably 5.9 to 6.2. The Office Action asserts that the sauce of Hardman et al. "fully meets the requirements for compoheht [*sic*] b in claims 1 and 3". Applicants respectively disagree.

While the pH of the sauce of Hardman et al. may literally lie within the cited range of the present claims, Applicants respectfully submit that the sauce of Hardman et al. is not "a pH modified sauce" containing "an edible alkaline or base substance, such that said sauce has a pH in a range of about 5.9 to about 7.2". Specifically, the language of present claim 1 recites a sauce

having an *added* alkaline or base substance, to modify the pH. In contrast, none of the ingredients included in the sauces taught by the reference qualify as such alkaline or basic substances. Applicants direct the Examiner's attention to column 4, lines 1-17, in addition to column 2, lines 8-12, wherein the "reduced fat product" of the reference is described. Thus, Applicants respectfully present that the sauce of Hardman et al. does not meet the requirements of component b, as defined in claim 1.

As none of the cited references teaches or suggests to provide a modified pH sauce, having an edible alkaline or basic substance, such that the sauce has a pH within the range recited by claim 1, Applicants respectfully submit that the combination of cited references fails to teach or suggest each feature of the present claims.

Reconsideration and withdrawal of the rejection is therefore respectfully requested.

In view of the above, it is respectfully submitted that all objections and rejections have been traversed. Thus, a Notice of Allowance is respectfully requested.. If any issues remain which may best be resolved through a telephone communication, the Examiner is requested to telephone the undersigned at the local Washington, D.C. telephone number listed below.

TPP/EPR
Attorney Docket No.: TPP 30866A

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Date: Sept 4, 2003

Respectfully submitted,



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